

[REDACTED]
[REDACTED]
[REDACTED]
JUL 16 1984

CERTIFIED MAIL

Gentlemen:

We have considered your application for recognition of exemption from Federal income tax under Section 501(c)(4) of the Internal Revenue Code of 1954.

The information submitted discloses that you were incorporated under the laws of the State of [REDACTED] on [REDACTED].

The primary purposes for which you were formed are: to establish, maintain and operate recreational areas in [REDACTED], solely for the mutual advantage of the members; to engage in such activities as may be for the mutual benefit of the owners of property in [REDACTED]; and, to enforce the restrictive covenants applicable against properties in [REDACTED].

You state that the Association has taken title to one waterfront property gifted to it to be used in common by all community property owners. You have listed [REDACTED] owners at present.

Your primary activities are maintaining the community dock property and enforcing the restrictive covenants. Your By-laws include as one of your purposes: "To manage the community park/dock property for the exclusive benefit of [REDACTED]."

Income is from member dues, boat slip rentals and some interest. Expenditures are for maintenance of the Association property and operating costs.

Section 501(c)(4) of the Code provides for the recognition of exemption of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

7/10/84

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname							
Date		7/16/84	7-1684				

Section 1.501(c)(4)-1(a)(2)(1) of the Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way to common good and general welfare of the people of the community. An organization embraced within this section is one which is operated for the purpose of bringing about civic betterments and social improvements.

Revenue Ruling 72-102, 1972-1 C.B., page 149, states that a nonprofit organization formed to preserve the appearance of a housing development and to maintain streets, sidewalks and common areas for use of the residents is exempt under Section 501(c)(4) of the Code. Membership is required of all owners of real property in the development and assessments are levied to support the organization's activities. It was held that by maintaining the property normally maintained by a municipal government, the organizations served the common good and general welfare of the people of the community.

Revenue Ruling 74-99, 1974-1 C.B., page 131, modified Revenue Ruling 72-102 by stating guidelines under which a homeowners association could qualify for exemption under Section 501(c)(4) of the Code. These guideline are:

1. The organization must serve a "community" which bears a reasonable, recognizable relationship to an area ordinarily identified as a governmental unit;
2. It must not conduct activities directed to the exterior maintenance of private residences; and
3. The common areas or facilities must be for the use and enjoyment of the general public.

This ruling states that a community, within the meaning of Section 501(c)(4) of the Code and the regulations, "... is not simply an aggregation of homeowners bound together in a structured unit formed as an integral part of a plan for the development of a real estate subdivision and the sale and purchase of homes therein."

Revenue Ruling 74-99 states that Revenue Ruling 72-102 "... was intended only to approve ownership and maintenance by a homeowners' association of such areas as roadways and parklands, sidewalks and street lights, access to, or the use and enjoyment of which is extended to members of the general

public, as distinguished from controlled use or access restricted to the members of the homeowners' association ..."

Your common area, the dock property, is not open for the use and enjoyment of the general public. It is restricted to access and use by property owners.

Therefore, you do not qualify for exemption from Federal income tax as an organization described in Section 501(c)(4) of the Code.

Revenue Ruling 75-494, 1975-2 C.B., p. 214 provides that an organization which requests tax-exempt status under Section 501(c)(7) as a social club will not qualify if it administers and enforces covenants for the preservation of the architecture and appearance of a housing development. Therefore, we are not considering exemption under this Section of the Code.

Based on the information submitted exempt status will not be recognized under any related paragraph of Code Section 501(c).


Until you have established an exempt status, you are not relieved of the requirements for filing Federal income tax returns.

Your attention is called to Section 528 of the Internal Revenue Code which was added by the Tax Reform Act of 1976. This Section provides that, in certain circumstances, a homeowners' association may elect not to be taxed on its "exempt function income" which includes membership dues, fees or assessments from owners of real property. The election is made by filing Form 1120H, if you determine that your organization qualifies under Section 528.

If you do not accept our findings, we recommend that you request a conference with a member of our Regional office conference staff. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional office, or, if you request, at any mutually

convenient District office. If we do not hear from you within 30 days of the date of this letter, this determination will become final.

Sincerely yours,


District Director

Enclosure: Publication 892